

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action # 03CV30298-MAP

7 JAMES TULGAN,
Plaintiff8 vs
9 BERKSHIRE ARMORED CAR SERVICES CO., INC. PROFIT
SHARING PLAN, BERKSHIRE ARMORED CAR SERVICES CO.,
10 INC., GERARD S. REDER and JACQUELINE POWERS,
Defendants14 DEPOSITION OF: GERARD S. REDER, taken
before M. Virginia Lanou, Notary
Public-Stenographer, pursuant to the
Massachusetts Rules of Civil Procedure, at
the law offices of JACK E. HOUGHTON, JUNIOR, 78
Bartlett Avenue, Pittsfield, Massachusetts, on
October 5, 2004 at 9:50 a.m.

20 APPEARANCES: See second page

23 M. Virginia Lanou
Court Reporter

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1 APPEARANCES:

2 LAW OFFICES OF JACK E. HOUGHTON, JUNIOR, 78 Bartlett
Avenue, Pittsfield, Massachusetts, 01201,
representing the Plaintiff
3 BY: JACK E. HOUGHTON, JUNIOR, ESQUIRE
4 DOHERTY, WALLACE, PILLSBURY & MURPHY, P.C., One
5 Monarch Place, Suite 1900, Springfield,
Massachusetts, 01144-1900, representing the
6 Defendants
7 BY: ROBERT L. LEONARD, ESQUIRE

8 In Attendance: Eric Reder

3 STIPULATIONS

4 It is agreed by and between the parties
5 that all objections, except objections as to the
6 form of the questions, are reserved, to be raised at
7 the time of trial for the first time.8 It is further agreed by and between the
9 parties that all motions to strike unresponsive
10 answers are also reserved, to be raised at the time
11 of trial for the first time.12 It is also agreed that the deponent will
13 read and sign the deposition.14 It is further agreed by and between the
15 parties that notification to all parties of the
16 receipt of the original deposition transcript is
17 also hereby waived.

Case Compress

Deposition of GERARD S. REDER, taken October 5, 2004

Sheet 2

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09:45:56 1 with his father. He is a principal in the company.
 09:45:58 2 He is the president of Berkshire Armored Car. He's
 09:46:02 3 been instructed not to say anything or do anything.

09:46:06 4 MR. LEONARD: Well, he was not an
 09:46:08 5 employee of any of the defendants?

09:46:10 6 MR. HOUGHTON: Yes, he is.

09:46:12 7 MR. LEONARD: What defendant?

09:46:16 8 MR. HOUGHTON: Berkshire Armored Car
 09:46:22 9 Services, Inc.

09:46:24 10 MR. LEONARD: What is his position with
 09:46:24 11 Berkshire Armored Car?

09:46:24 12 MR. HOUGHTON: President.

09:46:26 13 MR. LEONARD: He's currently the
 09:46:28 14 president of the organization?

09:46:30 15 MR. HOUGHTON: Yes.

09:46:32 16 MR. LEONARD: Is he the designated
 09:46:34 17 representative of that organization?

09:46:34 18 MR. HOUGHTON: No. You asked me about
 09:46:34 19 of time who that was and I designated Mr. Gerard
 09:46:40 20 Reder.

09:46:40 21 MR. LEONARD: Let me just talk to my
 09:46:42 22 client about the presence of Mr. Reder.

09:46:44 23 MR. HOUGHTON: Yes. He's been

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09:46:46 1 instructed not to say anything or do anything.

09:46:50 2 MR. ERIC REDER: I want to watch out
 09:46:52 3 for my father's health, too.

09:46:56 4 (Discussion held off record.)

09:47:20 5 MR. LEONARD: On the representation
 09:47:22 6 that Mr. Reder is the president of one of the
 09:47:26 7 defendants, I will not object to his presence.

09:47:28 8 MR. HOUGHTON: Thank you very much.

09:47:30 9 MR. LEONARD: I'm sure he knows that he
 09:47:32 10 has no right to actively participate in this in any
 09:47:36 11 fashion.

09:47:36 12 MR. HOUGHTON: He does.

09:47:46 13 MR. LEONARD: I'm going to have that
 09:47:46 14 marked as Exhibit 1. This is the letter about the
 09:47:52 15 notices of deposition.

09:47:54 16 MR. HOUGHTON: You're going to
 09:47:56 17 introduce this as an exhibit?

09:47:58 18 MR. LEONARD: Yes.

09:48:18 19 (Plaintiff's Exhibit 1,
 09:48:20 20 offered and marked.)

09:48:22 21 MR. LEONARD: Now I'm going to show
 09:48:26 22 you, Mr. Houghton, what has been marked Exhibit 1,
 09:48:28 23 which is the notices of deposition I sent out and

09:48:34 1 for which we're here today.

09:48:34 2 What I'd like to have you do is, if you
 09:48:38 3 would, I noticed the deposition of Gerard Reder
 09:48:42 4 individually, the deposition of Berkshire Armored
 09:48:48 5 Car Services Company, Inc. Profit Sharing Plan,
 09:48:50 6 Berkshire Armored Car Services Company, Inc. and
 09:49:02 7 also the deposition of Jacqueline Powers.

09:49:06 8 Disregarding the notice of the
 09:49:08 9 deposition of Jacqueline Powers it's my
 09:49:10 10 understanding that Mr. Reder is the person
 09:49:14 11 designated under the rules.

09:49:16 12 MR. HOUGHTON: Gerard Reder.

09:49:18 13 MR. LEONARD: Gerard. To speak for the
 09:49:22 14 legal entities that I noticed in deposition, the
 09:49:26 15 Profit Sharing Plan and the corporation. Mr. Reder,
 09:49:30 16 am I correct in my understanding?

09:49:34 17 MR. HOUGHTON: It's agreed.

09:49:34 18 MR. LEONARD: So we don't have to
 09:49:36 19 duplicate all of these, it's common sense, are we
 09:49:40 20 agreed that Mr. Reder, when he's answering these
 09:49:44 21 questions, is speaking on behalf of himself
 09:49:46 22 individually and as a representative of the Profi
 09:49:52 23 Sharing Plan and the corporation?

12:14:22 1 MR. HOUGHTON: Yes.
 12:14:22 2 MR. LEONARD: But I don't see the
 12:14:24 3 follow-up letter.
 12:14:28 4 MR. HOUGHTON: This one?
 12:14:28 5 MR. LEONARD: This one here, 2003.
 12:14:32 6 MR. HOUGHTON: Yes.
 12:14:34 7 MR. LEONARD: I don't see any documents
 12:14:36 8 responding to this letter.
 12:14:38 9 MR. HOUGHTON: Do you agree that you
 12:14:40 10 sent this letter?
 12:14:40 11 THE WITNESS: Yes, I agree I sent the
 12:14:42 12 letter.
 12:14:44 13 MR. HOUGHTON: So I'll stipulate that
 12:14:46 14 this is his letter in response to that letter of
 12:14:50 15 April 9, 2003.
 12:14:52 16 MR. LEONARD: All I want to do, Mr.
 12:14:52 17 Reder says I don't remember if I sent any documents
 12:14:56 18 with it. I don't believe we got any documents and I
 12:14:58 19 don't see any documents in your document response
 12:15:00 20 that indicate that they came with Exhibit 16.
 12:15:06 21 So if there are any in the document
 22 response --
 12:15:12 23 MR. HOUGHTON: I'll produce them. If

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12:15:12 1 there are any, I'll produce them. If not, I'll say
 12:15:18 2 it. That's the April 22 letter, right?
 12:15:20 3 MR. LEONARD: April 22 which is
 12:15:20 4 Exhibit 16, April 22, 2003 letter.
 12:15:40 5 I'm just going to consult with my
 12:15:42 6 client for a minute.
 12:17:34 7 (A recess was taken.)
 12:17:40 8 Q. (By Mr. Leonard) I'm now going to ask
 12:17:40 9 questions about the various counterclaims, Mr
 12:19:04 10 Reder.
 12:19:06 11 I think there was -- as the representative
 12:19:14 12 or the spokesperson for the defendant Berkshire
 12:19:20 13 Armored Car Services, Inc. in this matter do you
 12:19:24 14 understand that counterclaims have been filed
 12:19:26 15 against Mr. Tulgan in this lawsuit?
 12:19:28 16 A. Yes.
 12:19:32 17 Q. The first counterclaim that I see is that
 12:19:36 18 in paragraph 4-A of the counterclaim of -- let's go
 12:19:46 19 to the company. In paragraph 4-A of the
 12:20:02 20 counterclaim filed by Berkshire Armored Car
 12:20:06 21 Services, Inc. it alleges that Mr. Tulgan,
 12:20:14 22 "Misappropriated by fraud or other legal means
 12:20:18 23 property of Berkshire Profit Sharing Plan by illegal

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12:20:24 1 use of its telephone."
 12:20:28 2 Do you understand that is a counterclaim?
 12:20:30 3 A. Yes.
 12:20:34 4 MR. LEONARD: Off the record.
 5 (Discussion held off record.)
 12:21:32 6 MR. LEONARD: On the record.
 12:21:36 7 Q. (By Mr. Leonard) Well, as the
 12:21:38 8 spokesperson, as the representative of the legal
 12:21:40 9 entities plus in your individual capacity, is there
 12:21:48 10 -- do any of the defendants allege that Mr. Tulgan
 12:21:54 11 misappropriated property of any of the defendants by
 12:21:56 12 illegal use of its telephone?
 12:22:00 13 A. You're asking if I'm claiming that? Yes,
 12:22:04 14 for illegal use of the phone.
 12:22:06 15 Q. Now does that go -- do the defendants claim
 12:22:12 16 that Mr. Tulgan illegally used the phone of more
 12:22:18 17 than one of the defendants or just Berkshire Armored
 12:22:22 18 Car Services or the Profit Sharing Plan?
 12:22:26 19 A. If you use it from Berkshire Armored you're
 12:22:30 20 also using it from the pension plan because the
 12:22:34 21 pension plan is based on compensation. If a
 12:22:38 22 compensation is false, that's giving false
 12:22:42 23 information to Berkshire and the Profit Sharing

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12:22:46 1 Plan.
 12:22:46 2 Q. Okay. Would you tell us what facts led you
 12:22:52 3 and the other defendants to allege that Mr. Tulgan
 12:22:56 4 misappropriated assets of the defendant by illegal
 12:23:00 5 use of its telephone?
 12:23:02 6 A. When Mr. Tulgan was alone in our terminal
 12:23:06 7 there were 900 numbers dialed on it. There were 900
 12:23:14 8 numbers dialed from his parents house and there were
 12:23:16 9 900 numbers dialed from my daughter's house.
 12:23:26 10 Q. Was this while Mr. Tulgan was employed by
 12:23:30 11 Berkshire Armored Car Services?
 12:23:32 12 A. Yes, it was. I don't know before or after
 12:23:34 13 but while he was employed by me.
 12:23:38 14 Q. Were any calls -- do you have any
 12:23:42 15 information that Mr. Tulgan made any unauthorized
 12:23:48 16 calls, pay calls after he was, after his employment
 12:23:56 17 ended with Berkshire Armored Car Services?
 12:23:58 18 A. You're asking me if he made any calls
 12:24:00 19 charged to Berkshire Armored after he stopped
 12:24:04 20 employment with us? Is that your question? I
 12:24:08 21 paraphrased it.
 12:24:08 22 Q. Yes.
 12:24:10 23 A. I am unaware of it.

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12:24:12 1 Q. So are all the claims you're saying, you
 12:24:16 2 meaning any of the defendants, for calls that Mr.
 12:24:22 3 Tulgan allegedly made while he was still an employee
 12:24:24 4 of Berkshire Armored Car Service?

12:24:26 5 A. Oh, boy. Convoluted but, yes, say it
 12:24:30 6 again.

12:24:30 7 Q. I'm trying to -- I'll tell you where I'm
 12:24:36 8 trying to go and I hope you understand it.

12:24:38 9 A. Do you want me to understand it?

12:24:40 10 Q. No. I prefer you did not. I'm trying to
 12:24:46 11 determine whether there is any claim made by any of
 12:24:48 12 the defendants for telephone charges allegedly
 12:24:54 13 incurred by Mr. Tulgan after his employment ended
 12:24:58 14 with Berkshire Armored Car Services?

12:25:00 15 A. No.

12:25:04 16 Q. When did Mr. Tulgan's employment end with
 12:25:10 17 Berkshire Armored Car Services?

12:25:12 18 A. I'm not sure of the exact date.

12:25:14 19 Q. If I suggested 1997, would that refresh
 12:25:18 20 your recollection?

12:25:20 21 A. I would not dispute it without access to my
 12:25:22 22 own records.

12:25:24 23 Q. What information do you have that Mr.

12:25:30 1 Tulgan made telephone calls to 900 numbers that were
 12:25:34 2 charged to any of the defendants?

12:25:42 3 A. The phone bills that came from the terminal
 12:25:44 4 that he was working in.

12:25:52 5 Q. Now I have -- let me go back here -- I have
 12:26:08 6 Exhibit Number 2 to your deposition here which is
 12:26:14 7 our document request. And in document request
 12:26:20 8 number seven I asked for, on behalf of Mr. Tulgan,
 12:26:26 9 "All documents concerning the allegations in
 12:26:28 10 paragraph 4-A of your counterclaim." And this was
 12:26:34 11 addressed to all the defendants.

12:26:38 12 Now the response was, Documents supplied.

12:26:44 13 MR. LEONARD: Now just for the record
 12:26:46 14 to save time here can you, Mr. Houghton, tell me
 12:26:50 15 which documents in the document response from this
 12:26:54 16 morning are referred to for request seven?

12:27:02 17 MR. HOUGHTON: Which documents are
 12:27:04 18 referred to? There's a header that says response to
 12:27:10 19 request number seven. So in other words -- here is
 12:28:18 20 my header, this is the response to number seven.

12:28:24 21 MR. LEONARD: Let me see if I can find
 12:28:26 22 it. Can I just see it? Off the record.

23 (Discussion held off record.)

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12:30:50 1 MR. LEONARD: On the record.

12:30:52 2 Jack, just can we agree that the
 12:30:58 3 plaintiff requested in request number seven of his
 12:31:02 4 document request to all the defendants, "All
 12:31:06 5 documents concerning the allegations in paragraph
 12:31:08 6 4-A of your counterclaim."

12:31:10 7 MR. HOUGHTON: Well, it says what it
 12:31:12 8 says. I'm not -- frankly, I'm reluctant to
 12:31:20 9 stipulate to -- I don't know where you're going with
 12:31:22 10 this. I mean it's an exhibit and why don't you ask
 12:31:28 11 Mr. Reder, but I'm reluctant to stipulate to that.
 12:31:32 12 It says what it says.

12:31:36 13 Q. (By Mr. Leonard) I'm going to, Mr. Reder,
 12:31:38 14 I'm going to again show you what has been marked
 12:31:42 15 Exhibit 2 that I asked you about before. It's the
 12:31:44 16 document request, the defendants' response to the
 12:31:50 17 plaintiff's document request and ask you to go over
 12:31:54 18 to I believe it's request seven.

12:32:06 19 A. I read it.

12:32:10 20 Q. That's asked for any documents concerning
 12:32:12 21 paragraph 4-A of the counterclaim, does it not?

12:32:18 22 A. Yes.

12:32:22 23 Q. The response says in effect, See response

12:32:26 1 number seven in the document response.

12:32:28 2 A. Okay.

12:32:30 3 Q. I'm going to show you a copy of one of the
 12:32:34 4 counterclaims here because I think they all track.

12:32:40 5 MR. HOUGHTON: Do you want him to look
 12:32:40 6 at 4-A?

12:32:42 7 MR. LEONARD: Yes. I have it open
 12:32:44 8 here.

12:32:46 9 Q. (By Mr. Leonard) Would you take a look at
 12:32:48 10 4-A of the counterclaims from the various
 12:32:52 11 defendants?

12:32:52 12 A. Yes.

12:32:54 13 Q. Do you agree that 4-A, it alleges that Mr.
 12:33:02 14 Tulgan defrauded the defendants by making phone
 12:33:04 15 calls for which the defendants were charged?

12:33:10 16 A. Yes.

12:33:12 17 Q. What I'm going to ask you is, you have in
 12:33:16 18 front of you response number seven in the

12:33:20 19 defendants, plural, document response. Would you
 12:33:24 20 point out to me any documents in that that relate to
 12:33:32 21 -- that in any way show that Mr. Tulgan charged
 12:33:38 22 phone calls inappropriately or illegally to any of
 12:33:42 23 the defendants. You have a document you are

12:41:36 1 that he should not have?
 12:41:40 2 A. I don't see them in here and I am still
 12:42:04 3 looking.
 12:42:04 4 Q. Take your time.
 12:42:30 5 A. No, I don't see any phone bills. I don't
 12:42:32 6 see anything else.
 12:42:50 7 Q. Should I continue or do you want to look
 12:42:52 8 some more?
 12:43:02 9 A. Okay. You may continue.
 12:43:04 10 Q. Thank you. In paragraph 4-B of the
 12:43:10 11 counterclaim of each of the defendants it alleges
 12:43:14 12 that Mr. Tulgan, "Misappropriated by fraud or other
 12:43:20 13 illegal means property of the defendant Berkshire
 12:43:26 14 Armored Car Services, Inc., and of the Berkshire
 12:43:40 15 Armored Car Services Profit Sharing Plan by
 12:43:44 16 submitting invoices for payment to the plaintiff by
 12:43:48 17 the defendants which were knowingly and
 12:43:52 18 intentionally overstated by the plaintiff resulting
 12:43:54 19 in significant loss to Berkshire Armored Car
 12:43:58 20 Services, Inc.."
 12:44:00 21 Now as the representative of both yourself
 12:44:04 22 individually and two of the defendants, what
 12:44:08 23 information do you have or are you aware of that

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12:44:12 1 supports that allegation?
 12:44:16 2 A. He would submit a weekly report of the
 12:44:18 3 amount of production that he claimed to, allegedly
 12:44:22 4 had claimed to produce, and he was paid on that
 12:44:26 5 basis.
 12:44:30 6 Q. This would be while he was an employee of
 12:44:32 7 Berkshire Armored Car Services?
 12:44:34 8 A. That's correct.
 12:44:46 9 Q. Take one step back. When did any of the
 12:44:50 10 defendants, this is with regard to the alleged
 12:44:54 11 inappropriate telephone calls, when did the
 12:44:58 12 defendants find out that Mr. Tulgan had made these
 12:45:06 13 illegal telephone calls?
 12:45:08 14 A. When meaning the date?
 12:45:10 15 Q. Either the date --
 12:45:14 16 A. I don't have a date but in reviewing our
 12:45:16 17 phone bills we saw a whole bunch 900 number calls.
 12:45:20 18 While I'm familiar now that these are pornographic
 12:45:24 19 sites, I didn't know then. But apparently one of
 12:45:26 20 our people did and pointed it out to us that someone
 12:45:28 21 is making pornographic calls and they're very
 12:45:32 22 expensive. So we started an investigation and
 12:45:34 23 noticed some of these calls were when Jim was the

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12:45:38 1 only one in the terminal.
 12:45:46 2 Q. When did that happen, when did you receive
 12:45:50 3 that information?
 12:45:52 4 A. I don't recall.
 12:45:52 5 Q. Did you receive the phone bills which
 12:45:56 6 allegedly contain the inappropriate calls within a
 12:46:00 7 month after the phone calls were made?
 12:46:02 8 A. I don't know when the discovery was made
 12:46:06 9 from the phone bill. But obviously that's where we
 12:46:10 10 found it.
 12:46:14 11 Q. Do you recall the employee who called it to
 12:46:16 12 your attention?
 12:46:18 13 A. I really don't. I don't know.
 12:46:26 14 Q. How did you, how did the defendants -- what
 12:46:30 15 information did any of the defendants have that tied
 12:46:32 16 Mr. Tulgan or indicated that Mr. Tulgan was the one
 12:46:38 17 who made those calls?
 12:46:38 18 A. I say again, he was the only one in the
 12:46:42 19 terminal when the calls were made.
 12:46:46 20 Q. So this is a terminal that Berkshire
 12:46:48 21 Armored Car Services --
 12:46:48 22 A. Meaning an office, yes.
 12:46:54 23 MR. HOUGHTON: Where?

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12:46:56 1 THE WITNESS: West Springfield.
 12:46:56 2 Q. (By Mr. Leonard) They were made through his
 12:46:58 3 number in West Springfield?
 12:47:00 4 A. Yes.
 12:47:00 5 Q. Now moving to "B" here which is the
 12:47:08 6 misappropriation that I just asked you about. You
 12:47:12 7 said that Mr. Tulgan submitted production reports
 12:47:16 8 that were inaccurate, and his pay was based on
 12:47:22 9 those?
 12:47:22 10 A. They were fake. Inaccurate was your word?
 12:47:26 11 Q. You're right. Would you tell us as best --
 12:47:34 12 well, would you tell us what fake reports Mr. Tulgan
 12:47:38 13 submitted and when he did it?
 12:47:44 14 A. When he was submitting his weekly request
 12:47:50 15 or weekly report on what he allegedly wrapped -- we
 12:47:56 16 call the term wrapped -- loose coin in buckets that
 12:48:00 17 go into rolls.
 12:48:06 18 Q. Can you give me a fuller explanation of
 12:48:10 19 that?
 12:48:10 20 A. Yes. He would give us a report. He was
 12:48:14 21 paid on the basis of so much per wrap and he had
 12:48:18 22 personnel working for him, for us, and he would
 12:48:22 23 submit a weekly report on how much he had wrapped.

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 12:48:26 1 and then his pay would be based on that.
 12:48:30 2 Q. Was it a straight kind of commission basis
 12:48:32 3 or production basis or was it -- did the salary go
 12:48:38 4 up and down?
 12:48:38 5 A. It was a mixture but I don't recall. But
 12:48:42 6 it was so much pennies or percent of pennies and I
 12:48:46 7 don't recall per wrap.
 12:48:50 8 Q. Were these reports allegedly false or fake
 12:48:54 9 reports that he submitted, to use your word, were
 12:48:56 10 those submitted while he was an employee of the
 12:49:00 11 company?
 12:49:00 12 A. Yes.
 12:49:04 13 Q. Over how long a period do the defendants
 12:49:06 14 contend he submitted fake reports?
 12:49:08 15 A. I don't know. I'm going to guess months.
 12:49:14 16 Q. I'm going to show you again the document
 12:49:18 17 response which is Exhibit Number 2 and here I'll
 12:49:24 18 show you one of the complaints show that the
 12:49:28 19 counterclaim paragraph asserts that you say that he
 12:49:32 20 submitted fake reports, is 4-B. Do you see that?
 12:49:44 21 A. Yes, I do.
 12:49:46 22 Q. I'm going to show you the document
 12:49:48 23 response, the document production of documents

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 12:49:52 1 response which is plaintiff's Exhibit Number 2 and
 12:49:58 2 direct your attention to request number eight that
 12:50:04 3 reads, I'm just going to hold it. It requests all
 12:50:06 4 documents concerning the allegations in paragraph
 12:50:16 5 4-B of your counterclaim.
 12:50:22 6 The response is, see document request
 12:50:26 7 number seven. Do you agree? You can take a look at
 12:50:30 8 that if you want.
 12:50:30 9 A. Yes.
 12:50:32 10 Q. You have in front of you document request
 12:50:34 11 number seven, do you not?
 12:50:56 12 A. Yes.
 12:51:00 13 Q. Do you have document request number seven
 12:51:02 14 in front of you?
 12:51:04 15 A. The response, yes.
 12:51:06 16 Q. Would you by reference to document request
 12:51:08 17 number seven identify for us what documents support
 12:51:18 18 any of the defendants' allegations that Mr. Tulga
 12:51:24 19 submitted fake reports thereby receiving money that
 12:51:28 20 he should not have?
 12:52:32 21 A. I think these are part of them. I think
 12:52:44 22 these are the reports that he submitted. I think
 12:53:08 23 these are the reports.

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 12:53:08 1 Q. Okay.
 12:53:12 2 MR. LEONARD: I don't want you to do
 12:53:12 3 this without Jack's agreement. Can we separate out
 12:53:16 4 the documents that Mr. Reder believes support
 12:53:20 5 allegation 4-B.
 12:53:24 6 MR. HOUGHTON: Yes.
 12:53:26 7 MR. LEONARD: Do you want to do that?
 12:53:28 8 MR. HOUGHTON: Sure.
 12:53:34 9 THE WITNESS: May I be excused for a
 12:53:38 10 moment?
 12:53:40 11 MR. LEONARD: Absolutely.
 12:56:58 12 (A lunch recess was taken.)
 13:54:02 13 MR. LEONARD: On the record.
 13:54:10 14 Q. (By Mr. Leonard) Having come back from the
 13:54:12 15 lunch break, Mr. Reder, do you now realize that
 13:54:16 16 anything that you said earlier today during the
 13:54:18 17 deposition was incorrect in any respect?
 13:54:22 18 A. I haven't had a chance to review either in
 13:54:24 19 my head or in writing what I said, so I would rather
 13:54:28 20 withhold giving you an answer on that.
 13:54:32 21 Q. I think when we broke I had asked that the
 13:54:36 22 documents that the defendants contend show that Mr.
 13:54:50 23 Tulgan allegedly by fraud or other illegal means

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 13:54:54 1 obtained the property of any of the defendants, I
 13:54:56 2 asked you to cull out those documents. These are
 13:55:00 3 them? Okay.
 13:55:02 4 MR. LEONARD: Jack, I was going to mark
 13:55:04 5 these as a group. Do you want to write on the
 13:55:06 6 bottom sequential numbers?
 13:55:10 7 MR. HOUGHTON: Yes.
 13:55:12 8 MR. LEONARD: So we know what we're
 13:55:12 9 talking about.
 13:56:10 10 (Plaintiff's Exhibit 17,
 13:56:12 11 offered and marked.)
 13:56:40 12 Q. (By Mr. Leonard) Exhibit 17 consists of
 13:56:46 13 thirteen pages. Do you have Exhibit 17 in front of
 13:56:52 14 you?
 13:56:54 15 A. I do, sir.
 13:56:56 16 Q. Are those the documents contained in the
 13:56:58 17 document response that the defendants contend
 13:57:06 18 evidence or in any way show that Mr. Tulgan
 13:57:10 19 misappropriated money of one or more of the
 13:57:14 20 defendants?
 13:57:14 21 A. Yes.
 13:57:18 22 Q. Can we go through those -- off the record
 23 (Discussion held off record.)

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1 MR. LEONARD: On the record.

13:59:54 2 Q. (By Mr. Leonard) You have in front of you
13:59:56 3 Exhibit 17, correct?

13:59:58 4 A. Yes.

14:00:00 5 Q. Can we agree it's thirteen pages?

14:00:04 6 MR. HOUGHTON: Yes.

14:00:06 7 Q. (By Mr. Leonard) These are documents that
14:00:08 8 came out of the defendants', that's plural, document
14:00:14 9 response and these are the documents that the
14:00:16 10 defendants contend evidence or in some way show that
14:00:20 11 Mr. Tulgan misappropriated property of one or more
14:00:26 12 of the defendants, is that correct?

14:00:26 13 A. Yes.

14:00:28 14 Q. Would you explain to us how -- what in
14:00:32 15 these documents show that, if you can, by reference
14:00:38 16 to the page number in the lower left?

14:00:46 17 A. Well, starting with page two -- I'm going
14:00:50 18 to skip page one because these are not in my hand,
14:00:54 19 my handwriting, I didn't do them, but we will
14:00:58 20 contend that on page two has done 500 in a day I
14:01:06 21 proposed paying him twelve and a half cents a box or
14:01:10 22 one two five. Both Ken and Roger are matching or
14:01:14 23 beating my quota expectations and I am happy with

14:01:18 1 both. I feel that piece of work should increase
14:01:22 2 their production even more. And our records reveal
14:01:24 3 that they were not doing 500 a day.

14:01:28 4 Q. Where are those records?

14:01:30 5 A. I'm going through them now. Page three is
14:01:38 6 a firm called Silver, Cushon and Myers which is an
14:01:42 7 independent CPA firm which we hired to do some
14:01:50 8 auditing. And in January 1, '91 to September 30,
14:01:56 9 '91 we show that we paid \$153,000 and overpaid him
14:02:02 10 on that number by \$8,465.

14:02:08 11 Q. Excuse me. How do you -- what do you mean
14:02:12 12 by -- what does this mean by overpaid? Can you
14:02:16 13 explain that to me?

14:02:16 14 A. Yes. The input of the salary of \$52,000
14:02:20 15 did not match, plus the other \$28,000 for the other
14:02:24 16 men, did not match our sales which meant that it was
14:02:28 17 overstated.

14:02:30 18 Q. Well, before you leave this --

14:02:34 19 A. I didn't leave it.

14:02:36 20 Q. Okay. Does this mean that in effect for
14:02:40 21 that period of time that this operation, the
14:02:48 22 Springfield coin room, lost approximately \$8,465?

14:02:58 23 A. Where are you getting that from?

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14:03:02 1 Q. From the line amount you say overpaid.

14:03:06 2 A. \$8,465 we overpaid him. He did \$8,400 less
14:03:12 3 in work. So if we calculate what we actually sold
14:03:18 4 and the inventory that is left, then we paid him
14:03:22 5 \$8400 too much during the January 1 to September 30.

14:03:26 6 Q. But even if you paid him more than you were
14:03:30 7 making --

14:03:30 8 A. I didn't say that.

14:03:32 9 Q. Okay.

14:03:34 10 A. I don't know what our profit was on this.

14:03:36 11 Q. How does this support the allegation that
14:03:42 12 Mr. Tulgan defrauded one or more of the defendants?

14:03:48 13 A. Because he's put in for salary of \$52,118
14:03:52 14 which is overstated by \$8,465.

14:03:58 15 Q. Well, if someone has paid a salary, that's
14:04:02 16 for whatever work is done, correct? I guess I
14:04:06 17 shouldn't ask you that.

14:04:08 18 Who determined Mr. Tulgan's salary as
14:04:14 19 reported here?

14:04:14 20 A. A CPA firm.

14:04:18 21 Q. Who determined what Mr. Tulgan's salary
14:04:20 22 would be?

14:04:22 23 A. He did.

14:04:22 1 Q. So he gave himself -- were you his boss at
14:04:26 2 that time?

14:04:28 3 A. Did he answer to me directly? No. Well,
14:04:32 4 on the other hand he might have. I was at that
14:04:34 5 time, probably '91 I was a president of the company.

14:04:38 6 Q. Did you or did someone on behalf of
14:04:42 7 Berkshire Armored Car Services tell Mr. Tulgan to
14:04:46 8 set his own salary?

14:04:48 9 A. No. I set, I believe he and I together set
14:04:54 10 a formula for that salary based on the amount of his
14:04:56 11 production.

14:04:58 12 Q. So his production, are you saying that his
14:05:02 13 production did not live up to what you expected?

14:05:06 14 A. No. I'll use my own phrasing and you can
14:05:10 15 do what you want with it. He reported to us a
14:05:12 16 production level that would have produced a \$52,000
14:05:16 17 salary and that was overstated.

14:05:22 18 Q. Okay. Going on, any other documents?

14:05:34 19 A. Box, paper. By the way, this is a way that
14:05:40 20 more of an expert in this calculation can show that
14:05:46 21 the production was overstated because it shows the
14:05:50 22 number of boxes and the number of rolls that can be
14:05:52 23 extrapolated out by someone with a little bit more

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14:05:56 1 detail on it, which produced an overstatement of
14:08:02 2 production.

14:06:02 3 Q. By the way, I notice in the two documents
14:06:06 4 you refer to, Mr. Reder, that they refer back to
14:06:08 5 inventory or events in 1991, is that correct?

14:06:18 6 A. Yes.

14:06:20 7 Q. So these events occurred back in 1991 or
14:06:24 8 thereabouts?

14:06:24 9 A. Yes.

14:06:26 10 Q. Did you receive these documents or did your
14:06:28 11 company receive these documents back around 1991?

14:06:32 12 A. I presume so, yes. It would have to be
14:06:36 13 prior to that a wee bit more for the CPA to be able
14:06:42 14 to come up with that.

14:06:44 15 Q. What other documents?

14:06:44 16 A. Is this Jim's, can I ask if that's Jim's?

14:06:48 17 Q. No, you can't.

14:06:50 18 MR. HOUGHTON: No, you can't. Just
14:06:52 19 keep going.

14:06:54 20 THE WITNESS: Again, we have for 1990
14:06:56 21 payroll coin rolling, Jim FICA, workers comp, amount
14:07:04 22 overpaid, \$7,900.

14:07:08 23 Q. (By Mr. Leonard) This is number five, page

14:07:10 1 five of that exhibit?

14:07:12 2 A. Yes, it is.

14:07:12 3 Q. Okay.

14:07:18 4 A. Same thing with six.

14:07:22 5 Q. Do you recognize that handwriting by the
14:07:24 6 way?

14:07:26 7 A. Six is an inventory, kind of straight and
14:07:34 8 simple.

14:07:34 9 Q. But my question is --

14:07:36 10 A. Do I recognize the handwriting? No.

14:07:38 11 Q. Yes.

14:07:40 12 A. No. It's definitely not mine. '91 is one
14:07:48 13 of the sheets that will demonstrate how the
14:07:52 14 shortages or how the overcharging is determined
14:07:56 15 because this is, I mentioned earlier that we can
14:08:02 16 determine in hindsight by where we have sold rolled
14:08:08 17 coin, so we always know how much we have actually
14:08:10 18 produced and sold. You'll see that there's a
14:08:14 19 federal reserve in here, FRBB, Federal Reserve Bank
14:08:18 20 of Boston and Maine Armored speaks for itself. I
14:08:28 21 don't do the bookkeeping. I'm sure you recognize
14:08:32 22 that by now.

14:08:32 23 I couldn't lead you through the steps of

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14:08:36 1 the determination but others can.

14:08:38 2 On page eight is again a summary. This
14:08:44 3 summary also is done by our CPA and it shows an
14:08:50 4 overpayment of \$16,377 in overstated earning. It
14:09:02 5 looks like it was running seven, \$8,000 a year. And
14:09:08 6 the end of '91 came up to \$16,000 and a total of
14:09:14 7 \$19,000 finally.

14:09:18 8 On page nine it's a bookkeeping indication
14:09:34 9 of the falsified production and it will take someone
14:09:44 10 else to tell you.

14:09:48 11 Q. Mr. Reder, does this all refer back to
14:09:50 12 events that happened in 1990 and 1991?

14:09:52 13 A. These particular ones appear to.

14:09:58 14 Q. I think I've had sufficient explanation of
14:10:00 15 these. Thank you.

14:10:02 16 A. You are welcome.

14:10:06 17 Q. Are there any other documents in the
14:10:14 18 document response that the defendants contend
14:10:18 19 support the allegations in paragraph 4-B of the
14:10:22 20 various defendants' counterclaim stating that in
14:10:30 21 effect Mr. Tulgan misappropriated money by knowingly
14:10:34 22 and intentionally overstating information?

14:10:38 23 MR. HOUGHTON: Can I just say that once

14:10:40 1 again the defendant intends to supplement its
14:10:42 2 response and from the records that I described
14:10:44 3 earlier there may very well be records there to
14:10:50 4 support that.

14:10:52 5 Q. (By Mr. Leonard) When did Mr. -- at some
14:10:56 6 point did Mr. Tulgan get out of the coin wrapping
14:11:00 7 business or coin wrapping portion of the operation?

14:11:04 8 A. At one point he left our employ to open a
14:11:08 9 restaurant or a delicatessen called Deli Time. So
14:11:14 10 he left our employ during that period. I think he
14:11:18 11 came back, but I'm not sure. I know he filed
14:11:26 12 bankruptcy and I know that Deli Time went down the
14:11:30 13 tube. I don't know if he came back to work for me
14:11:32 14 or not. I can't remember.

14:11:34 15 There was a time that he left our employ, a
14:11:38 16 couple of times I think, or maybe more than a couple
14:11:42 17 of times he left our employ.

14:11:44 18 Q. Do any of the defendants have any other
14:11:46 19 information besides the information that you have
14:11:52 20 testified here today to support paragraph 4-B in the
14:11:56 21 counterclaims?

14:11:58 22 A. Well, I can't answer for them. We gave an
14:12:02 23 honest effort to produce as much records as we

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14:12:04 1 thought would be necessary to convince you, Mr.
 14:12:08 2 Leonard, of at least our integrity. If there's more
 14:12:14 3 to be found, I promise you we will eagerly bring it
 14:12:18 4 to your attention.

14:12:20 5 Q. Let me turn your attention to paragraph 4-C
 14:12:26 6 of the counterclaim of each of the defendants. That
 14:12:30 7 alleges in paragraph 4-C of the counterclaim that
 14:12:34 8 Mr. Tulgan physically assaulted the defendant
 14:12:38 9 Jacqueline Powers who at the time was an employee of
 14:12:42 10 Berkshire Armored Car Services, Inc. thereby causing
 14:12:46 11 her injury.

14:12:50 12 As the representative, the designated
 14:12:52 13 representative of the two legal defendant legal
 14:12:58 14 entities and yourself, what information do you have
 14:13:02 15 that support this allegation?

14:13:10 16 A. My office was right next to hers and
 14:13:12 17 between our offices was patio doors that normally
 14:13:20 18 function outside but we had them to separate our
 14:13:22 19 offices so we could have verbal privacy.

14:13:26 20 I was sitting there. Jim and Jackie got
 14:13:30 21 into a shouting match. Jim has a horrible temper
 14:13:36 22 that he can't control. When the words started
 14:13:40 23 flowing I naturally paid attention. Jim took a

14:13:44 1 bundle of keys. Our keys are forty to fifty keys on
 14:13:48 2 a ring and he threw it at her. Jackie is a skinny
 14:13:54 3 little thing, but relatively athletic. She dodged
 14:13:58 4 it.

14:13:58 5 I immediately jumped up and called Jim
 14:14:00 6 back. Jim immediately went downstairs and left the
 14:14:04 7 building and I decided I better not chase after him.
 14:14:08 8 It scared the hell out of Jackie. He's got a
 14:14:14 9 vicious temper against women.

14:14:18 10 Q. So --

14:14:20 11 A. And she was shaking like a leaf after that.
 14:14:24 12 A bundle of keys, visualize them, fifty of them
 14:14:28 13 being thrown by a grown man at a skinny little girl.

14:14:32 14 Q. When did this happen?

14:14:34 15 A. I don't know.

14:14:34 16 Q. Can you give me a year?

14:14:36 17 A. No. I can't give you a decade. I don't
 14:14:40 18 remember the date. It can be -- presumably I can
 14:14:44 19 get you somewhere in the time period by looking at
 14:14:46 20 her employment records.

14:14:52 21 Q. Did this occurrence happen when Mr. Tulgan
 14:14:56 22 was an employee of Berkshire Armored Car?

14:15:00 23 A. Yes. Although I think he left shortly

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14:15:04 1 after that or something like that.

14:15:08 2 Q. And Miss Powers was an employee of
 14:15:10 3 Berkshire Armored Car at the time?

14:15:12 4 A. Yes, she was.

14:15:12 5 Q. Is this the same Miss Powers who was a
 14:15:14 6 trustee of the Profit Sharing Plan?

14:15:18 7 A. Yes.

14:15:22 8 Q. Did she leave the employment of Berkshire
 14:15:28 9 Armored Car before Mr. Tulgan?

14:15:42 10 A. I don't know. I don't think so. I only
 14:15:46 11 have to guess at that, so I can't give you a
 14:15:50 12 specific answer without looking at the personnel
 14:15:52 13 files.

14:15:54 14 Q. Do you, Mr. Reder, claim to have witnessed
 14:15:56 15 Mr. Tulgan throwing the keys in the direction of
 14:16:00 16 Miss Powers?

14:16:02 17 A. I not only witnessed it; I went out after
 14:16:06 18 him because I feel that women only when you're
 14:16:10 19 married to them should be beaten. Scratch that. I
 14:16:18 20 don't know why I said that.

14:16:22 21 Seriously he threw the keys at her and I
 14:16:24 22 went right after him.

14:16:38 23 Q. Was any action taken as a result of that

14:16:40 1 occurrence?

14:16:40 2 A. No. I rationalized to myself that I can't
 14:16:46 3 do this to my daughter or my son-in-law meaning
 14:16:50 4 disciplinary action or knocking him on his ass. So
 14:16:54 5 I opted to let it go and I sat with Jackie and
 14:16:58 6 calmed her down and she recognized that I'm
 14:17:02 7 protecting my daughter and son-in-law. So she
 14:17:06 8 agreed not to press charges. She was rattled.

14:17:10 9 Q. Did she ever file or did she ever incur any
 14:17:12 10 medical expenses --

14:17:16 11 A. Not as her --

14:17:18 12 Q. -- to your knowledge of any of the
 14:17:18 13 defendants or as a result of this alleged accident?

14:17:26 14 A. Did she file -- you have to say it again,
 14:17:30 15 please.

14:17:30 16 Q. Yes. Are any of the defendants aware of
 14:17:36 17 any claims made against any of the defendants by
 14:17:40 18 Miss Powers for this alleged --

14:17:44 19 A. Claimed against the defendant?

14:17:46 20 Q. Yes. Any of the defendants in this action.

14:17:48 21 A. Did she make a claim against the
 14:17:52 22 defendants?

14:17:52 23 Q. Yes.

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14:17:52 1 A. Isn't that ourselves?
 14:17:56 2 Q. Yes. Let me try to put it --
 14:18:00 3 A. He's not a defendant.
 14:18:00 4 Q. I know that. Yes, I know that.
 14:18:04 5 A. I'm sure you do.
 14:18:06 6 Q. What I'm asking you is did Mrs. Powers ever assert a claim against you or Berkshire Armored Car or the Profit Sharing Plan as a result of the alleged assault by Mr. Tulgan?
 14:18:22 10 A. No.
 14:18:24 11 Q. Did Mrs. Powers -- what was the loss suffered, if any, by Berkshire Armored Car as a result of this alleged assault on Mrs. Powers?
 14:18:34 14 A. Only that when you're running a business, and I don't know how many employees I had at the time, you don't want dissension among them. You don't want bad feelings. So there is a suffering in that now he won't talk to her, she won't talk to him.
 14:18:52 20 Her mother was employed by me. She went to her mother complaining about it. I kept it tapped down, not covered up, but I put people at ease. The keys did miss her, but scared the hell out of her.
 14:19:04 22
 14:19:08 23

14:19:12 1 That's all.
 14:19:14 2 Q. Let's move here to the counterclaim, paragraph four, actually paragraph six -- no. I'm sorry, I skipped one here. Let me go to paragraph 4-D of the counterclaim.
 14:19:26 5 Paragraph 4-D of the counterclaim alleges that Mr. Tulgan, "violated company rules and policies of the defendant Berkshire Armored Car Services Co., Inc. during and after Tulgan's employment at same thereby injuring the company."
 14:19:30 6 Would you tell us what information any of the defendants have, defendants plural, have to support that allegation?
 14:19:44 11 A. Well, there are rules that we have printed up. Every employee is familiar with them which declares that fighting during company hours is forbidden. The unwritten rule is you don't steal and he stole by using the 900 numbers. And he also solicited from one of our vendors a letter falsifying the value of the machinery. The vendor wrote me, I have a copy or I will get a copy if I don't have it, from the vendor indicating that Jim -- well, I was told verbally that Jim had asked h m

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14:20:36 1 to put a fake price on the value of the equipment right after he left our employment.
 14:20:40 2 So that complies with that paragraph in my opinion.
 14:20:42 3 Q. Do you have the letter, the false letter from the vendor?
 14:20:46 4 A. I will get it if I don't have it.
 14:20:50 5 Q. From that am I to assume that it is not among the documents produced here today?
 14:20:52 6 A. I don't know whether it is or not.
 14:20:54 7 Q. Let's do this; I'm going to take you back to the document response again which is Exhibit Number 2 and particularly request number ten which says produce all documents.
 14:21:02 10 A. Yes.
 14:21:04 11 Q. So that request number ten asks for all documents concerning the allegations in paragraph 4-D of your counterclaim and the response says see documents to response request number seven. Do you agree with that?
 14:21:08 12 A. Yes.
 14:21:12 13 Q. And you have in front of you, do you not, document response number seven?
 14:21:16 14

14:22:00 1 A. No.
 14:22:02 2 MR. HOUGHTON: Right there.
 14:22:04 3 THE WITNESS: Okay, now I have it in front of me.
 14:22:08 4 Q. (By Mr. Leonard) Can we agree that you have document response number seven in front of you?
 14:22:12 5 A. Uh-huh.
 14:22:16 6 Q. Can you please identify for us any documents in that document response that evidence or support in any way the allegations in paragraph 4-D of the counterclaims?
 14:22:20 7 A. As a result of this meeting and sitting here in the room I recall the incident where a man by the name of Dick Straight, who was a vendor that sold me the coin wrapping machine, tried to sell me another one. And in the process of selling me another machine he denigrated the value of the machines that were going to be traded which were the ones that Tulgan worked on.
 14:22:24 8 And he said that Tulgan told him to give him a letter indicating, and I cannot recall the amounts of money that Jim told him the machines were worth. But the bottom line was instead of the

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14:23:50 1 multiple thousands James claimed to the value, it
 14:23:52 2 was far less. And in fact he showed me a letter, so
 14:23:58 3 I will go back to him inasmuch as I just remembered
 14:24:02 4 his name saying it out loud, so that it will be in
 14:24:06 5 the record that the guy's name is Dick Straight.

14:24:10 6 Q. Straight?

14:24:10 7 A. Like in a straight line.

14:24:12 8 Q. S-t-r-a-i-g-h-t?

14:24:14 9 A. I think so, yes. He's in Worcester,
 14:24:18 10 somewhere in that area.

14:24:20 11 Q. When did this occur?

14:24:22 12 A. Sometime after Jim left. And that is an
 14:24:28 13 unethical and improper thing to do. I leave it to
 14:24:32 14 the lawyers to know if it's illegal. But certainly
 14:24:36 15 unethical and improper.

14:24:38 16 Q. What loss, if any, was suffered as a result
 14:24:40 17 by the defendants?

14:24:40 18 A. Of that letter?

14:24:42 19 Q. Well, of this Mr. Tulgan's alleged --

14:24:48 20 A. Not a loss. Only an expressed motive. It
 14:24:54 21 didn't cause me a loss.

14:24:56 22 Q. This was after Mr. Tulgan --

14:24:58 23 A. Left.

14:24:58 1 Q. -- left your company entirely?

14:25:00 2 A. I don't know. I don't know which time
 14:25:04 3 frame that he left. Whether he was going over to
 14:25:06 4 the Deli Time thing or just left for something else.
 14:25:10 5 But he was not in my employ when that was told to
 14:25:12 6 me.

14:25:14 7 Q. At some point did Berkshire Armored Car get
 14:25:16 8 out of the coin wrapping business?

14:25:18 9 A. Yes.

14:25:18 10 Q. When was that?

14:25:20 11 A. I don't know. Well, I have to qualify
 14:25:24 12 that. Wrapping ourselves, we got out of wrapping
 14:25:28 13 ourselves and started to sub it out to a distant
 14:25:32 14 relationship with another vendor.

14:25:38 15 Q. Okay. Let's then go to paragraph six of
 14:25:44 16 the counterclaim and I believe this is in all the
 14:25:50 17 counterclaims that says that, "In addition to above

14:25:54 18 Reder loaned to Tulgan the sum of \$15,000 for the
 14:25:58 19 purchase of Tulgan's home in Longmeadow, Mass., which
 14:26:00 20 Tulgan failed to repay."

14:26:02 21 Did I read that correctly?

14:26:06 22 A. Yes. I guess. I don't have it in front of
 14:26:08 23 me.

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14:26:08 1 Q. Here. Let me give you a copy.
 14:26:12 2 A. Number?

14:26:16 3 MR. HOUGHTON: Right there.

14:26:18 4 THE WITNESS: Yes.

14:26:22 5 Q. (By Mr. Leonard) When do you say that you
 14:26:26 6 loaned \$15,000 to Mr. Tulgan?

14:26:28 7 A. For the down payment of the house in
 14:26:30 8 Longmeadow.

14:26:36 9 Q. When was that?

14:26:42 10 A. I can look it up but I can't tell you now.
 14:26:46 11 I don't remember.

14:26:48 12 Q. Was it in the -- was it when he was in the
 14:26:50 13 coin wrapping business or around that time?

14:26:58 14 A. I don't know if we would specify just the
 14:27:02 15 coin wrapping because he was working for me before
 14:27:06 16 he was married and after he was married. So I don't
 14:27:10 17 know the time frame. It's researchable if you
 14:27:16 18 insist.

14:27:16 19 Q. Well, if you're going to make the
 14:27:20 20 allegation --

14:27:20 21 A. It's not an allegation. That's the truth.

14:27:24 22 Q. Well, it's an allegation when it's in the
 14:27:26 23 complaint. Let me put it that way.

14:27:30 1 So far as you know did your daughter and
 14:27:34 2 son-in-law and Mr. Tulgan only own one house in
 14:27:38 3 Longmeadow?

14:27:40 4 A. Longmeadow, yes, they only owned one.

14:27:44 5 Q. Would you tell us in as much detail as you
 14:27:48 6 can how you came to make the loan, the alleged one
 14:27:50 7 to Mr. Tulgan and what was said by all the parties
 14:27:56 8 involved?

14:27:56 9 A. Well, sir, it was a Thursday afternoon. I
 14:28:00 10 don't know.

14:28:00 11 The kids were married and they got a home
 14:28:04 12 and I lent them the money.

14:28:06 13 Q. Well, do you recall any more detail than
 14:28:10 14 that?

14:28:10 15 A. I can recall that Jim never said thank you.

14:28:16 16 Q. Do you have the check that -- how did you
 14:28:20 17 pay the \$15,000, by check?

14:28:24 18 A. I'm assuming I did.

14:28:26 19 Q. Who was the check payable to?

14:28:28 20 A. I don't know.

14:28:32 21 Q. Would you tell us as best you can remember
 14:28:42 22 what was communicated to Mr. Tulgan and your
 14:28:46 23 daughter with regard to this amount of \$15,000?

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14:28:52 1 A. It's for their house.
 14:28:54 2 Q. So it was for their house. But what, if
 14:28:58 3 anything, did you or anyone on your behalf say to
 14:29:02 4 express that you were loaning them money?
 14:29:12 5 A. Do I remember distinctly saying to them,
 14:29:16 6 Pay me back within six months? No. Shit, there I
 14:29:22 7 go again. Here's a father lending his daughter
 14:29:24 8 money. I didn't ask her for an interest charge, I
 14:29:30 9 didn't ask her for payback, so you win that round.
 14:29:34 10 Q. So would it be -- was it a gift to your
 14:29:38 11 daughter, this \$15,000, was it intended to be a gift
 14:29:42 12 to your daughter from a loving father?
 14:30:10 13 A. I can't characterize it. Let's put it this
 14:30:14 14 way; I would not force her into bankruptcy to pay me
 14:30:20 15 back. If I need money, will the kids take care of
 14:30:24 16 me?
 14:30:26 17 Q. Well, I don't want to press unnecessarily
 14:30:30 18 on this point, but you are suing Mr. Tulgan alleging
 14:30:34 19 that he owes you \$15,000 for this alleged loan. So
 14:30:40 20 I'd like to know, if you can, if you have any
 14:30:44 21 further memory of what was said with regard to this
 14:30:50 22 amount of money that you contend was a loan to Mr.
 14:30:56 23 Tulgan?

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14:30:56 1 A. I know the thrust of your question because
 14:31:00 2 I am over twenty-one. I did not have him sign a
 14:31:06 3 note. I did not stipulate an interest. I didn't
 14:31:10 4 know Jim very well. If I had known him then I would
 14:31:16 5 have said I'll consider it a gift because I know
 14:31:20 6 he'll never pay back anything that he owes. Phrase
 14:31:22 7 it any way you want.
 14:31:24 8 I'm not trying to avoid your question. I
 14:31:26 9 think it's an unfair question and you phrased it
 14:31:30 10 unfair when you said it as a loving father.
 14:31:36 11 Q. Well, we've now moved on to another
 14:31:40 12 question.
 14:31:40 13 A. Good.
 14:31:42 14 Q. No. The question in front of you, and all
 14:31:44 15 I'm asking you, Mr. Reder, is to give us your best
 14:31:50 16 recollection of what you or anyone on your behalf
 14:31:52 17 said to Mr. Tulgan concerning the \$15,000?
 14:32:02 18 A. To Mr. Tulgan -- I'm interrupting you bu
 14:32:04 19 to Mr. Tulgan or to my daughter?
 14:32:06 20 Q. To both, to either on this topic. If you
 14:32:16 21 have given me your best memory?
 14:32:18 22 A. My best memory, it's a period of time when
 14:32:22 23 Jim was going to sell the house, Terry and Jim, at a

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14:32:26 1 profit. Then they were going to return the loan to
 14:32:32 2 me. That didn't happen. He took the money and
 14:32:34 3 bought or invested in the Deli Time. While his
 14:32:42 4 mother didn't lose any money, I lost mine. So it
 14:32:46 5 puts a different turn to it. You know, would I
 14:32:48 6 throw my daughter in debtors prison? No. Would I
 14:32:52 7 throw Jim in a debtors prison? Yes. Look, don't
 14:32:58 8 get me in a spot with my own attorney. Ask me a
 14:33:02 9 different question.
 14:33:04 10 Q. Do you have any other memory of any
 14:33:08 11 communications with Mr. Tulgan and/or your daughter
 14:33:12 12 on the issue of the \$15,000 you allege you loaned to
 14:33:18 13 Mr. Tulgan?
 14:33:26 14 A. No, I have no further recollection.
 14:33:30 15 Q. Let's, if we can, move to allegations
 14:33:36 16 contained in -- we finished here. Can I have that
 14:33:40 17 back again?
 14:33:42 18 A. Sure.
 14:33:46 19 Q. Allegations in paragraph seven of the
 14:33:50 20 counterclaims which reads, "Reder also loaned monies
 14:33:56 21 to Tulgan for business venture which Tulgan failed
 14:34:00 22 to repay."
 14:34:02 23 Did I read that correctly? I'll give you a

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14:34:06 1 copy of the complaint. It's number seven.
 14:34:24 2 A. Go ahead.
 14:34:24 3 Q. Did I read that correctly; is that an
 14:34:26 4 allegation that you're making?
 14:34:28 5 A. Yes.
 14:34:30 6 Q. And the other defendants are making?
 14:34:34 7 A. I made this allegation.
 14:34:36 8 Q. Okay.
 14:35:00 9 A. It says Reder there.
 14:35:02 10 Q. I know. But I want to make sure none of
 14:35:04 11 the other -- okay.
 14:35:08 12 So you're alleging that Mr. -- you made a
 14:35:10 13 loan to Mr. Tulgan for a business venture which he
 14:35:14 14 has failed to repay, is that correct?
 14:35:16 15 A. Yes.
 14:35:20 16 Q. When did you make this loan to Mr., the
 14:35:22 17 alleged loan to Mr. Tulgan?
 14:35:26 18 A. It would have been right around the time
 14:35:28 19 that he started that Deli Time.
 14:35:30 20 Q. What was the business venture that you made
 14:35:32 21 the loan for?
 14:35:36 22 A. I said Deli Time. And you have to forgive
 14:35:42 23 both my age and lack of intelligence, but it was

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14:35:46 1 also for Armor Wear. It was a Kevlar vest,
 14:35:52 2 bullet-proof vest used for both hunting and
 14:35:56 3 protection against bullets. That's been my business
 14:36:00 4 since I was a little boy. We used the Kevlar to
 14:36:08 5 make a hunting vest, a hunting jacket. And I asked
 14:36:12 6 Mr. Tulgan to write a letter to all the police
 14:36:18 7 departments in the country announcing that we are
 14:36:20 8 this corporation. I lent him the money to buy the
 14:36:26 9 brochures and I lent him the money and paid, I'm
 14:36:30 10 going to say a tailor but I think that's descriptive
 14:36:36 11 enough, to manufacture a token vest. Token is not
 14:36:38 12 the word I need. A sample, a model.

14:36:42 13 And he didn't contact any police
 14:36:44 14 departments at all, did nothing. And yet had he
 14:36:48 15 done that, we all would have been extraordinarily
 14:36:52 16 successful because I don't have to tell you how
 14:36:56 17 world events made the creation, the manufacturing of
 14:36:58 18 bullet-proof vests a very desirable commodity. That
 14:37:06 19 money was never repaid.

Q. How much did you loan him?

A. I have no idea.

Q. Well, now --

A. Kevlar is like \$50 a square foot. I had a

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14:37:18 1 couple of rolls of that. The tailor, for want of a
 14:37:20 2 better term, I can't think of another term. Plus
 14:37:26 3 there were trips to New York to the U.N. that I had
 14:37:28 4 paid the bill for. The brochures were relatively
 14:37:40 5 expensive. I didn't add them up. It's my daughter.
 14:37:42 6 I know it's a redundancy, but sooner or later you
 14:37:46 7 have to recognize it. He doesn't.

Q. Mr. Reder, you've alleged in a complaint
 that you've loaned money to Mr. Reder and you are
 suing him because he didn't repay you. Are you
 telling me as you sit here today you don't know how
 much you lent him?

A. Yes. I am telling you that, but I can go
 back and find some of those records I think.

Q. Can you tell us the year in which you
 allege you lent him this money?

A. I don't remember. Time has taken on a
 different dimension to me. I don't know if it's
 five years or ten years or two years. It's been a
 while though. I'm going to guess, I'm going to have
 to guess at it but it's also possible to get the
 exact date. Oh, Christ, ten years, eight years,
 somewhere around eight years I think.

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Q. Is it your testimony that you lent him the
 money in connection with a business undertaking
 called Armor Wear?

A. Yes.

Q. Was Armor Wear a business venture I take
 it?

A. Yes.

Q. Was there a corporation?

A. I don't know. No, I don't think we
 incorporated it.

Q. So was this an operating division and
 operating as a separate division of Berkshire
 Armored Car Services?

A. No. It was mainly a singular
 proprietorship meant for Jim and Terry.

Q. Who owned this business, Armor Wear?

A. Jim owned it.

Q. What about your daughter, did she have an
 interest in it?

A. I don't believe there was a formal
 documentation of that.

Q. Well, did she have any understanding -- did
 you have any understanding as to whether or not your

daughter had any interest in this business?

A. The only interest was as an et ux as a
 wife.

Q. Although you don't remember the amount you
 say you loaned to Mr. Tulgan, what were the terms of
 the loan?

A. Again, the same scenario as for the house,
 gave it to them. The bread is cast on the water; if
 it came back I would have harvested it. It did not
 come back.

Q. As a consequence of that you never got a
 harvest?

A. That's correct.

Q. What makes you contend that Mr. Tulgan has
 some legal duty to repay you whatever amount you
 gave him with regard to this?

A. Why am I to assume that anything that I do
 for him is a gift?

Q. No. We're just talking about this
 particular allegation that he owes you money as a
 result of a failed business venture.

A. I'm depending on a moral platform, too.

Q. Well, if this is a moral claim, please let

14:41:40 1 us know that.

14:41:40 2 A. I'm not going to let you off that easy.

14:41:46 3 Q. Tell us what facts there are that lead you
14:41:48 4 to believe that Mr. Tulgan has a legal duty to repay
14:41:54 5 you any money that you advanced to him in connection
14:41:56 6 with this Armor Wear venture?

14:41:58 7 MR. HOUGHTON: I think I'm going to
14:42:00 8 object, but you can answer if you're able to.

14:42:02 9 THE WITNESS: I hate being a money
14:42:04 10 machine and I don't mind giving my children the
14:42:08 11 benefit of what I have earned. There is a sense of
14:42:14 12 principle that is instilled in my blood, in my
14:42:18 13 children, that when they take something, they owe it
14:42:22 14 or a thank you; none of which did I ever get back
14:42:26 15 and you are instigating this lawsuit.

14:42:32 16 MR. HOUGHTON: Just answer the
14:42:34 17 question.

14:42:34 18 THE WITNESS: Okay.

14:42:36 19 MR. HOUGHTON: Don't direct comments to
14:42:40 20 Mr. Leonard.

14:42:42 21 Q. (By Mr. Leonard) Is that the extent of your
14:42:42 22 answer?

14:42:42 23 A. That is the extent of my answer.

14:42:42 1 Q. Do you have any other facts that you

14:42:46 2 believe support your claim that Mr. Tulgan has a
14:42:48 3 legal duty to repay you the money you put into this
14:42:52 4 venture?

14:42:52 5 MR. HOUGHTON: Same objection. You can
14:42:54 6 answer it if you're able.

14:42:56 7 THE WITNESS: We'll let the courts
14:42:58 8 decide if it's legal or not. You're asking for an
14:43:00 9 opinion. I'll accept the court's opinion if it's
14:43:04 10 legal or not.

14:43:06 11 Q. (By Mr. Leonard) I'm asking you for any
14:43:08 12 facts that you know of, that you're aware of that
14:43:10 13 lead you to believe, to lead you to contend that Mr.
14:43:14 14 Tulgan owes you the money you gave him for this
14:43:20 15 venture called Armor Wear?

14:43:22 16 MR. HOUGHTON: Same objection. Go
14:43:22 17 ahead and answer.

14:43:24 18 THE WITNESS: The money that was given
14:43:26 19 to him was requested. I didn't volunteer to give
14:43:28 20 it. At which time he requested it, he promised to
14:43:32 21 pay me back. So I have a verbal or oral commitment
14:43:36 22 to be repaid. I thought it would have been hideous
14:43:40 23 to reduce it to a written form.

1 SIGNATURE PAGE- ERRATA SHEET

2 (To be signed by deponent and returned to counsel
3 within thirty days)

4 I, the undersigned, GERARD S. REDER, do hereby
5 certify that I have read the foregoing transcript of
6 my testimony given in the matter of JAMES TULGAN
versus BERKSHIRE ARMORED CAR SERVICES CO., INC.
7 PROFIT SHARING PLAN, BERKSHIRE ARMORED CAR SERVICES
CO., INC., GERARD S. REDER and JACQUELINE POWERS,
8 taken on October 5, 2004, and that to the best of my
knowledge, said transcript is true and accurate,
with the exception of the following corrections
9 LISTED BELOW:

PAGE LINE CORRECTION

10 _____

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19 DATE _____

20 _____

21 _____

22 GERARD S. REDER

23 mvl

14:43:44 1 Q. (By Mr. Leonard) What did Mr. Tulgan say to
14:43:44 2 you in that regard?

14:43:46 3 A. In what regard?

14:43:46 4 Q. I think you just said that he said I'll pay
14:43:50 5 you back. Can you tell us your best memory of what
14:43:54 6 was said in connection with that?

14:43:56 7 A. Yes. He said that his mother was going to
14:44:00 8 lend him \$10,000 and he was going to use the \$10,000
14:44:04 9 if I lent him, and he will return that money to me
14:44:12 10 upon his successful life in that business.

14:44:20 11 Q. So it would be fair to say that Mr. Tulgan
14:44:26 12 said if I'm successful I'll repay you?

14:44:30 13 A. Skip the if.

14:44:32 14 Q. Did you understand that his promise to
14:44:32 15 repay you was predicated upon his future success?

14:44:40 16 A. Yes.

14:44:42 17 Q. Okay.

14:44:44 18 MR. LEONARD: I don't have any further
14:44:46 19 questions. I think we're all set.

14:44:52 20 MR. HOUGHTON: I don't have any
14:44:52 21 questions.

14:44:54 22 (Witness excused.)

23 (Deposition concluded.)